



October 17, 2000

Ms. Carolyn Jones  
Town Secretary  
Town of Fairview  
500 South Highway 5  
Fairview, Texas 75069

OR2000-4026

Dear Ms. Jones:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 140254.

The Town of Fairview (the "town") received a request for the following information regarding the McKinney Municipal Airport (the "airport"):

1. A copy of the minutes of any meeting and/or any resolution or ordinance authorizing any advertising by the Town concerning the [airport] including, but not limited to, any advertising at a movie theater.
2. A copy of any check, purchase order, draft, or voucher representing payment by the [town] for expenses incurred in creating or maintaining any advertising regarding the [airport] including, but not limited to, any advertising at a movie theater.
3. A copy of any contract for advertising regarding the [airport] including, but not limited to any advertising at a movie theater.
4. Any information regarding any contributions to the [town] regarding the development of any advertising concerning the [airport] including, but not limited to, any advertising at a movie theater.

You state that information responsive to item numbers one and four does not exist. You claim that the submitted information, which is responsive to item numbers three and four,

is excepted from disclosure under sections 552.101 and 552.103 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Section 552.103 does not protect from disclosure information subject to mandatory public release pursuant to section 552.022 of the Government Code. Section 552.022 provides as follows:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

The information at issue is clearly information in an account, voucher, or contract that relates to the receipt or expenditure of public funds. Section 552.103 is not other law that makes the requested information confidential. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.--Dallas 1999, no pet.) (litigation exception discretionary; governmental body may waive section 552.103 exception). Therefore, the submitted information, in its entirety, must be disclosed to the requestor pursuant to section 552.022.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

---

<sup>1</sup>You have not presented arguments to support your claim under section 552.101. Therefore, we do not address this exception.

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Julie Reagan Watson". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Julie Reagan Watson  
Assistant Attorney General  
Open Records Division

JRW/pr

Ref: ID#140254

Encl. Submitted documents

cc: Mr. Greg S. Boling  
Bickerstaff, Heath, Smiley, Pollan, Kever & McDaniel, L.L.P.  
1717 Main Street  
3000 Bank One Center  
Dallas, Texas 75201-4335  
(w/o enclosures)